

# SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING  
100 NORTH NINTH STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-2259

## **Granted Appeal Summary**

### **Case**

SUSAN E. PHILLIPS v. JOHN MARK ROHRBAUGH, JR., IN HIS INDIVIDUAL CAPACITY AND IN HIS CAPACITY AS CO-EXECUTOR OF THE ESTATE OF JOHN MARK ROHRBAUGH, SR., ET AL.  
(Record Number 200840)

### **From**

The Circuit Court of Madison County; L. Farris, Judge.

### **Counsel**

Kimberly Ann Murphy and Lisa M. Campo (Hale Ball Carlson Baumgartner Murphy, PLC) for appellant.

John F. Boland (Rees Broome, PC) and Robert E. Scully, Jr. (Blankinship & Keith) for appellees.

### **Assignments of Error**

- I. The Trial Court erred in ruling that Va. Code §§ 64.2-1612(I), 64.2-1614(A) and 64.2-1614(B) must be read together and as a result, there is no viable, independent cause of action against John Mark Rohrbaugh, Jr. judicial relief under Va. Code § 64.2-1614(A).
- II. The Trial Court erred when it held that the prerequisites of Va. Code §§ 64.2-1612 and 64.2-1614(B) must be met before a claim under Va. Code § 64.2-1614(A) may proceed.
- III. As the Complaint clearly stated a claim for relief under Va. Code § 64.2-1614(A) and detailed the nature of the claim, the Trial Court improperly short-circuited the litigation by granting Mark's Demurrer to Count I.
- IV. The Trial Court erred in finding that the Common Fund Doctrine did not apply when it prematurely dismissed Plaintiff's claims for recovery of her attorneys' fees with prejudice.
- V. The Trial Court failed to recognize a viable claim for an equitable accounting by Ms. Phillips against Mark Rohrbaugh, as agent under the 2004 DPOA, in light of the "Special Circumstances" Doctrine.

- VI. The Trial Court failed to recognize a viable cause of action by Ms. Phillips against the Executors for an equitable accounting pursuant to Va. Code § 8.01-31 in Count II of the First Amended Complaint.
- VII. The Trial Court committed reversible error when it ruled that there is no basis for suit against the Executors because the claims all go back to the issue of the Power of Attorney.
- VIII. The Trial Court erred in short-circuiting the litigation by granting the Executors' Demurrer because the Estate is a necessary party to the proceeding.